bsb

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4707 OF 2006
ALONGWITH
CIVIL APPLICATION NO. 2205 OF 2007

Kusum Panditrao Bhosale ... Petitioner

V/s

1. Chairman/President/Secretary,
   Siddheshwar Shikshan Mandal,
   Yelavi, Tal. Tasgaon, Sangli.
2. The Head Master,
   Babasaheb Patil Vidyamandir,
   Yelavi, Tal.Tasgaon, Dist.Sangli.
3. The Education Officer
   (Secondary Section),
   Zilla Parishad, Sangli, Dist.Sangli.
4. Deputy Director of Education
   (Secondary & Higher Secondary),
   Kolhapur Region, Kolhapur. ... Respondents

Mr. Sunil D. Dighe for the petitioner.
Mr. N.V.Bandiwadekar for the Respondent No.1 & 2.
Mr. S.K.Chinchalikar, A.G.P. for the Resp.Nos.3 & 4.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 18TH OCTOBER, 2007.

P.C.:

1. The petitioner has challenged the order of the School Tribunal which has upheld the order of the respondent Nos. 1 and 2 terminating her services. The learned advocate for the respondent Nos. 1 and 2 has stated that two vacancies have arisen in the school and the petitioner could be accommodated in one of those

posts if the Education Officer approved her appointment.

2. Civil Application No. 2205 of 2006 has been filed by the petitioner contending that respondent Nos. 1 and 2 be directed to fill the post in the open category for Assistant Teacher by appointing her. In reply to the civil application the respondent No.3 - the Education Officer has filed an affidavit contending that in view of the Government Resolution issued by the Government, the school was expected to maintain 52% reservation. This contention of the Education Officer is contrary to the judgment of this Court in Writ Petition No. 3680 of 2004. The Court has concluded that the reservation should be maintained at a level of 34% as provided under the M.E.P.S. Act. An affidavit has now been filed by the Deputy Education Officer in which he avers in para 3 as follows :-

> "3. Without prejudice to the contentions hereinafter, I say that if the respondent Nos. 1 and 2 forward the proposal of the appointment fo the applicant as a full time teacher, the respondent No.3 i.e. Education Officer (Secondary), Zilla Parishad, Sangli will consider the proposal in accordance with law and Maharashtra Employees of Private Schools Rules, 1981. I say that I have read the Order dated 25.2.2005 passed in Writ Petition No. 3680 of 2004 and as per the contention in para 3 of the said order, the Education Officer is bound to act in accordance with the Maharashtra Employees of Private Schools Rules and not as per the Government Resolution issued by the Government

in contravention with Rules."

The Deputy Education officer has also shown his willingness to consider the proposal which would be submitted by the management of the school for appointing the petitioner, in accordance with law for granting approval.

3. In these circumstances, the petition is disposed of in the following manner :-

(i) Mr. Bandiwadekar, learned advocate for the respondent Nos. 1 and 2 states that the respondent Nos.1 and 2 will reinstate the petitioner within two weeks from today. He further states that a proposal to approve her appointment will be sent to the Education Officer within two weeks thereafter.

(ii) The Education Officer to consider the proposal and grant approval in accordance with law within four weeks thereafter.

(ii) Mr.Dighe states that the petitioner will not claim the back wages for the period of her unemployment with the respondent Nos.1 and 2.

4. Writ petition and civil application disposed of accordingly.

.....